


Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through 10/30/2008. OMB 0651-00xx
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 108.0008-00000	RECEIVED CENTRAL FAX CENTER MAY 25 2007	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>May 25, 2007</u> Signature _____		Application Number 09/921,107		Filed July 31, 2001
Typed or printed name <u>Miyabi Grace Forker</u>		First Named Inventor Kevin P. Headings		Examiner Olabode Akintola
		Art Unit 3691		
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.				
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. <u>37,129</u> Registration number _____ <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		 Signature Amedeo F. Ferraro Typed or printed name (310) 286-9800 Telephone number May 25, 2007 Date		
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.				
<input checked="" type="checkbox"/> Total of <u>1</u> forms are submitted.				

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**RESPONSE UNDER 37 C.F.R. 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 3772****PATENT**
Attorney Docket No. 108.0008-00000
Customer No. 22882**RECEIVED
CENTRAL FAX CENTER
MAY 25 2007****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re Application of:
Kevin P. Headings et al.
Serial No.: 09/921,107
Filed: July 31, 2001
For: SUBSCRIBER MANAGEMENT
SYSTEMConfirmation No.: 7091
Group Art Unit: 3691
Examiner: Olabode AkintolaMail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

In reply to the Advisory Action dated March 2, 2007 and the Final Office Action of December 29, 2006 ("Final Office Action"), Applicant submits the following remarks for consideration by the Members of the Pre-Appeal Brief Conference.

I. Brief Background

The application includes two independent claims, claim 7, generally drawn to a system for controlling access to digital media content by a user, and claim 19, generally drawn to a computer-implemented method for creating an account for an account holder to view digital media content. Claims 7-14, 19-27, and 32-37 stand rejected under 35 U.S.C. § 112, first paragraph. Claims 7-14 and 19-27 stand rejected under 35 U.S.C. § 102(e). Claims 13, 14, and 27 stand rejected under 35 U.S.C. § 103(a). All three of the above-identified rejections are the subject of this Request for a Pre-Appeal Conference.

Pre-appeal Brief Request 05-25-07

Application No. 09/921,107
Pre-Appeal Brief Request For Review dated May 25, 2007
Reply to Final Office Action of December 29, 2006

RECEIVED
CENTRAL FAX CENTER

MAY 25 2007

II. Clear Errors

(1) The Examiner's rejection of claims 7-14, 19-27, and 32-37 under 35 U.S.C. § 112, first paragraph, is clearly erroneous for at least the following reasons.

As set forth in Applicant's specification as originally filed, content "restrictions may be imposed on the HoH account as a whole, or selectively amongst one or more family member accounts and/or the HoH account." (Specification, page 6, line 24 through page 7, line 1.) Similarly, "viewing restrictions may be established for the HoH account as a whole, or selectively amongst family member accounts and/or the HoH account." (Specification, page 7, lines 7-9). In addition, dependent claim 20, as originally filed recited that the "step of imposing restrictions includes the sub-step of imposing restrictions selectively among the primary account and the sub-account."

By the Examiner's own admission, the above-quoted language of the specification can be interpreted "as establishing viewing restriction for the HoH that is different from the restriction for the sub account." (Final Office Action, page 7, lines 16-17). Because viewing restrictions may be selectively established among a family member account and an HoH account (*i.e.*, since the family member account and the HoH account may have different restrictions), the family member account may have access to media content not accessible by the HoH account and *vice versa*. Thus, Applicant's specification fully supports the recitation present in each of independent claims 7 and 19 that "the digital media content accessible by said one or more associated sub-accounts not being limited to a subset of the digital media content accessible by said main account."

(2) The Examiner's rejection of claims 7-14 and 19-27 under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,163,272 to Goode et al. ("Goode") is clearly erroneous for at least the following reasons.

Goode discloses an apparatus and method for managing the personal identification numbers of customers and customer authorization access to an interactive information distribution system. Goode teaches that "each household member can be given a PIN that has restricted spending such that each household member can only

Application No. 09/921,107
Pre-Appeal Brief Request For Review dated May 25, 2007
Reply to Final Office Action of December 29, 2006

purchase a certain number of movies per month." (Goode, col. 2, lines 60-63). In Goode, "the holder of the master PIN is permitted to define certain account management parameters." (Goode, col. 2, lines 38-40). Goode teaches that these parameters may be used to establish sub-accounts "such that each customer within a household can be assigned a PIN having their own limits on what services they can access within the information distribution system." (Goode, col. 2, lines 59-64; FIG. 2).

Goode does not disclose setting viewing restrictions on the master PIN account. The master PIN account is allowed to access the entire content available to the household and is permitted to set various viewing restrictions on the content available to the sub-accounts. In Goode, if a viewing restriction is imposed on a sub-account, the content accessible by the sub-account is by necessity a subset of the entire content accessible by the master PIN account. Accordingly, Goode does not disclose or suggest "the digital media content accessible by said one or more associated sub-accounts not being limited to a subset of the digital media content accessible by said main account" as recited in independent claims 7 and 19.

Moreover, the Examiner admits that as to the subject matter of dependent claims 13, 14, and 27, "Goode does not explicitly teach the steps wherein said processor is adapted to generate a report of the spending habits of the viewers using the accounts and wherein said processor is adapted to generate a report of the viewing habits of the viewers using the accounts." (Final Office Action, page 6, lines 9-12). Since Goode fails to disclose all of the recitations in each of claims 13, 14, and 27, the Examiner's rejection of claims 13, 14, and 27 under 35 U.S.C. § 102(e) as anticipated by Goode cannot be maintained.

(3) The Examiner's rejection of claims 13, 14, and 27 under 35 U.S.C. § 103(a) as being unpatentable over Goode in view of U.S. Patent No. 6,178,407 to Lotvin ("Lotvin") is erroneous for at least the following reasons.

The rejection of claims 13, 14, and 27 is moot at least because these claims depend from an allowable independent claim, or claims dependent therefrom.

Moreover, Lotvin discloses a system that "provides data to the parent about his

Application No. 09/921,107
Pre-Appeal Brief Request For Review dated May 25, 2007
Reply to Final Office Action of December 29, 2006

child's or children's latest activities on the system, as well as other data, such as statistics about his child's or children's progress over time." (Lotvin, col. 8, lines 64-67). Lotvin teaches that "[o]ther data presented to the parent at block 306 can include his child's or children's accumulated point totals, purchase history, and educational presentation history." (Lotvin, col. 9, lines 8-11). Lotvin does not teach a processor adapted to generate a report of the spending habits or viewing habits of the users using the accounts, as recited in claims 13 and 14, respectively. Lotvin does not teach or suggest the step of generating a report of account activity as recited in claim 27. Accordingly, the combination of Goode and Lotvin fails to disclose or suggest all of the recitations of claims 13, 14, and 27.

III. Conclusion

In view of the foregoing remarks, it is respectfully submitted that the claims are patentable. Therefore, it is requested that the Members of the Pre-Appeal Brief Conference reconsider the outstanding rejections in view of the preceding comments. Issuance of a timely Notice of Allowance of the claims is earnestly solicited.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-1068.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: May 25, 2007

By: 
Amedeo F. Ferraro
Registration No. 37,129

1557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: (330) 877-0700
Facsimile: (330) 877-2030